

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/089,338
Inventor(s) : Brian Francis Gray et al.
Filed : January 17, 2003
Art Unit : 3761
Examiner : Melanie Jo Hand
Docket No. : AA431
Confirmation No. : 1452
Customer No. : 27752
Title : ABSORBENT ARTICLE HAVING BARRIER SHEET
AGAINST THE MIGRATION OF THE SKIN CARE
COMPOSITION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

INTRODUCTORY REMARKS

The Director is hereby authorized to charge all required fees (including any extension of time fees) and to credit any overpayments in this and any concurrent or future correspondence to Deposit Account No. 16-2480.

In response to the Office Action of January 10, 2011, Applicants respectfully request review of the final rejection in the above-identified application. A Notice of Appeal is being filed herewith. No amendments are being filed with this request.

STATUS OF CLAIMS

Claims 1 and 10-12 are rejected.

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GROUND OF REJECTION TO BE REVIEWED

- Rejection of Claims 1 and 10-12 Under 35 USC §102(a) as being anticipated by Hanser (WO 98/42286 A1).

ARGUMENTS

Rejection Under 35 U.S.C. §102(a) Over Hanser (WO 98/42286 A1)

Claims 1 and 10-12 have been rejected under 35 U.S.C. §102(a) as being anticipated by Hanser (WO 98/42286 A1). Applicants respectfully traverse this rejection because the Office Action has failed to set forth a *prima facie* case of anticipation. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 51053 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 827 (1987); M.P.E.P. 2131. In addition, the Federal Circuit has stated that the claim elements must be described with sufficient precision and detail to establish that the subject matter existed in the prior art. *Verve, LLC v. Crane Cams, Inc.*, 311 F.3d 1116, 1120, 65 USPQ2d 1051 (Fed. Cir. 2002) (“A single reference must describe the claimed invention with sufficient precision and detail to establish that the subject matter existed in the prior art.”). Applicants submit that the Office Action has not shown how Hanser meets the requirements of the standard for anticipation.

Applicants respectfully submit that the Office Action has not shown where Hanser teaches or suggests each and every element of the claimed invention, such as, for example, the barrier sheet comprising a component selected from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, and mixtures thereof. The Office Action cites to Col. 5, lines 15-20 of Van Tilburg, incorporated by reference into Hanser, stating that the materials of Van Tilburg are “silicone-coated paper release liners and therefore the barrier sheet 238 comprises inorganic particles, i.e. silicone.” (Office Action, page 3).

Applicants respectfully submit that silicone is not an inorganic particle and, as such, the Office Action has not shown where Hanser teaches each and every element of the claimed invention.

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Therefore, Applicants respectfully submit that the Office Action has not shown where each and every element of the claimed invention is taught by Hanser and withdrawal of the rejection and allowance of the claims is respectfully requested.

Conclusion

In view of the foregoing, reconsideration of this application, and allowance of the pending claims are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By /ATB/

Signature

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Date: April 7, 2011
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